

Special Case No.44/2017**CNR No.MHPU01-012382-2017****CBI Vs. Ajit Gokhale and others****ORDER BELOW EXH.84**

1] This is an application filed by accused no.1 Ajit Gokhale, the then Assistant General Manager, Bank of Maharashtra, Model Colony Branch, Pune under Section 227 of Cr.P.C. for discharge from the offence under Section 120-B r.w. section 420, 465, 467 and 471 of Indian Penal Code and under Section 13(2) r.w. 13(1)(d) of Prevention of Corruption Act.

2] It is the case of prosecution that accused persons hatched conspiracy and as part of conspiracy accused persons succeeded to avail cash credit facility in the name of Shell... Companies and thereby cheated the Bank. Accordingly, investigation has been conducted and charge-sheet is filed.

3] Accused no.1 the then Banker submitted that there is no ground to frame charge. The act done by him is in official capacity to grant cash credit facility to the borrowers. After going through all the documents and valuation report the loan has been sanctioned as per norms of the Bank. The internal and external audit report never discloses any discrepancies in the procedure to grant cash credit facility. The Bankers have initiated proceeding to recover the amount but those facts are suppressed by the

Investigation Officer. There is no sanction availed by the Investigation Officer to prosecute the accused. The borrower has paid huge interest amount. There is no material to frame the charge. Hence, application deserves to be allowed.

4] Senior Special Prosecutor filed say at exh.99 and submitted that accused Reena Nitin Kale entered into agreement with Banker Ajit Gokhale and thereby cheated the Bank by taking the loan in the name of Shell companies. The accused is the person who has overlooked all irregularities and thereby sanctioned loan of Rs.5 crores in favour of non-existing business of the co-accused which are merely floated on the paper. Accused no.1 did not consider valuation report in proper prospective. The accused has accepted valuation report blindly. It indicates he is part of the conspiracy. According to Senior Special Prosecutor there is material to frame charge against accused. Hence, application deserves to be rejected.

5] I have gone through the investigation papers very carefully and cautiously. It appears from the statement of Pratap Mohanti accused no.1 has sanctioned finance to Nitin Kale in the name of Parth Traders and Krishnai Associates, both partnership Firms are of his close relatives from Nasik City, when he was working as Banker in the Nasik. It further discloses that accused Nitin Kale entered into conspiracy and availed cash credit facility of Rs.5 crores in the name of Shell Companies when accused was working as Assistant General Manager of Bank of Maharashtra, Karve road Branch. These two incidences indicates prima facie

accused is part of criminal conspiracy to dupe the Bank. It appears from the investigation papers that Gat no.170 of village Jalochi was valued by valuer for Rs.20,70,59,290/- on 01/6/2013 whereas its face value conducted by Bank after the account of accused became NPA discloses its value as Rs.6,41,00,000/-. It seems that accused being a Banker did not consider valuation report in proper prospective.

6] It appears from the investigation papers, at the time of filing charge-sheet accused was terminated from the service and he was no Banker. Therefore, there is no need to avail any sanction. At this juncture it is very relevant to refer the statement of Kishor Kulkarni and Shrikant Argade. It appears from the statement of Kishor Kulkarni that accused being a Banker has exceeded his jurisdiction time to time and by ignoring circulars and Rules and Regulations he has sanctioned loan proposal of the co-accused Nitin Kale without any proper scrutiny. He has given detail statement regarding accounts of the borrowers and he has also stated irregularities committed by the accused while performing his duties as Banker. It also indicates how amount has been siphoned to Shell Companies. This can be done only and only when there is some blessings of the Banker. Therefore, statement of Kishor Kulkarni and Shrikant Argade is epso-facto to show that accused no.1 is involved in the conspiracy and thereby overlooked all the irregularities and permitted co-accused to siphon the amount to various shell companies. Thus, at this juncture, there is sufficient material to frame the charge against accused. Hence, in the interest of justice I pass following order -

[4]

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ORDER

Application exh.84 is rejected.

(Pralhad C.Bhagure)
Special Judge (CBI-ACB cases), Pune.

Date – 20/10/2018

I affirm that the contents of this PDF file order are same word for word as per original order

Name of Steno : Smt. U. S. More (G-II)
Court Name: : Shri.Pralhad C.Bhagure
Special Judge CBI, ACB, Pune.
Order signed by PO : 20/10/2018
Date of PDF : 25/10/2018
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